



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 28, 2000

OFFICE OF
THE CHAIRMAN

The Honorable Jesse A. Helms
United States Senate
403 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Helms:

Thank you for your letter regarding the Commission's initiative to facilitate development of telecommunications competition in multiple tenant environments. On July-7, 1999, the Commission released its *Notice of Proposed Rulemaking (NPRM)* in WT Docket No. 99-217 and CC Docket No. 96-98. Among other things, the *NPRM* sought comment on the Commission's authority to take action to ensure that competitive local telecommunications service providers will have reasonable and nondiscriminatory access to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. In your letter, you express concern that implementing a regulation requiring building owners to provide nondiscriminatory access to competitive local exchange carriers would present potential constitutional issues, as well as infringing on the owners' private property rights.

The *NPRM* represents one step in the Commission's ongoing efforts to foster competition in local telecommunications markets pursuant to Congress' directive in the Telecommunications Act of 1996. These efforts are intended to bring the benefits of competition, choice, and advanced services to all consumers of telecommunications, including both businesses and residential customers, regardless of where they live or whether they own or rent their premises. In particular, this item addresses issues that bear specifically on the availability of facilities-based telecommunications competition to customers in multiple tenant environments, including, for example, apartment buildings, office buildings, office parks, shopping centers, and manufactured housing communities.

The Commission has not yet reached any conclusions regarding the matters discussed in the *NPRM*. The Commission is currently reviewing over 1000 comments that were filed in response to the *NPRM* and a related *Notice of Inquiry* by telecommunications companies, electric utilities, building owners, and State and local governments. Based on that record, the Commission will consider carefully whether building owners are exacting monopoly power and what regulations, if any, are appropriate.

I appreciate your interest and participation in this proceeding. We have placed your letter in the record of this proceeding and will give it full consideration along with all other comments. Please let me know if I can be of further assistance.

Sincerely,

William E. Kennard
Chairman

JESSE HELMS
NORTH CAROLINA

EX PARTE OR LATE FILED

ORIGINAL

99-217

United States Senate

WASHINGTON, DC 20510-3301

August 4, 2000

AUG 11 2 00 PM '00

LTB
PV
LTK
5/26/7

RECEIVED

SEP - 7 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable William E. Kennard, Chairman
Federal Communications Commission
445 12th Street, Southwest
Washington, D.C. 20554

Dear Mr. Chairman:

I'm confident that I speak for many others in the Senate in conveying to you my deep concerns about the forced access regulations under consideration by the Federal Communications Commission. Many of my constituents have expressed their apprehension that, if and when implemented, these regulations will infringe on their private property rights. I agree with them.

Such forced access regulations, Mr. Chairman, would subject building owners to unwarranted federal intervention and deprive them of their right to determine which telecommunications providers should have access to their buildings. As building space is limited, it must be carefully managed in order to accommodate a variety of systems.

In my view, owners of these properties have a right to control what goes into their buildings — after all they built them with their own capital.

Additionally, federal courts may well find that these forced access regulations violate the Takings Clause of the Fifth Amendment which would subject the Commission to lawsuits very costly to taxpayers. Beside that, should not the Commission let the free market be the arbiter?

No. of Copies rec'd
List ABCDE

2

The Honorable William E. Kennard

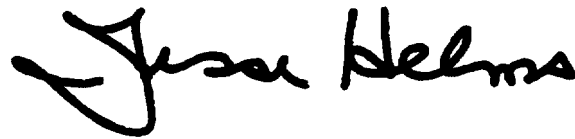
August 4, 2000

Page 2

Market forces will ensure that tenants have the fastest, and least expensive telecommunications services available. Commercial building owners and the telecommunications industry can work this out amongst themselves, without government intervention. Building owners have no other choice to providing tenants with the widest possible communications options or face empty buildings.

I do urge the Commission to drop consideration of these regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesse Helms". The signature is fluid and cursive, with a large initial "J" and a stylized "H".

JESSE HELMS:b

cc: The Honorable Susan Ness
The Honorable Harold Furchtgott-Roth
The Honorable Michael K. Powell
The Honorable Gloria Tristiani